



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter Of: Rising Wolf Construction, Inc.

File No.: B-260422

Date: February 28, 1995

DECISION

Rising Wolf Construction, Inc. protests the award of a subcontract to Raging Eagle by Flying Eagle Corporation, under Flying Eagle's contract with the Department of Health and Human Services, Indian Health Service.

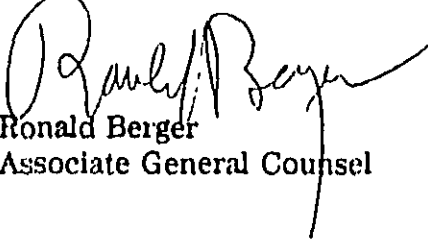
We dismiss the protest because our Office generally does not review the selection of subcontractors.

Specifically, our Office does not review subcontract awards by government prime contractors except where the award is by or for the government. 4 C.F.R. § 21.3(m)(10). This limitation on our review is derived from the Competition in Contracting Act of 1984, 31 U.S.C. § 3551 *et seq.* (1988), which limits our bid protest jurisdiction to protests concerning solicitations issued by federal contracting agencies. In the context of subcontractor selections, we interpret the Act to authorize our Office to review subcontractor protests only where, as a result of the government's involvement in the award process or due to the contractual relationship between the prime contractor and the government, the subcontract is in effect awarded on behalf of the government.¹ Edison Chouest Offshore, Inc.; Polar Marine Partners, B-230121.2; B-230121.3, May 19, 1988, 88-1 CPD ¶ 477.

¹ For example, we will consider protests regarding subcontracts awarded by prime contractors operating and managing Department of Energy facilities; purchases of equipment for government-owned, contractor-operated (GOCO) plants; and procurements by construction management prime contractors. Ocean Enters., Ltd., 65 Comp. Gen. 585 (1986), 86-1 CPD ¶ 479, *aff'd*, 65 Comp. Gen. 683 (1986), 86-2 CPD ¶ 10.

Accordingly, we find this subcontract award, in which the government played no part in the selection of the contractor, not to be "by or for the government," and outside our jurisdiction.

The protest is dismissed.



Ronald Berger
Associate General Counsel